IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Bail Appl..No. 7790 of 2007()

ST.4975/2005 of J.M.F.C.-III,PALAKKAD

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PETITIONER/ACCUSED

K.V.CHANDRASEKHARAN, S/O.VASU,
CHEMBALODE HOUSE, CHANDRANAGAR P.O.,
PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS: COMPLAINANT

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1. SREELEKSHMI KURIES & LOANS (P) LTD.,
PALAKKAD, REP. BY MANAGER, M.HARIDASAN.

2. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7790 OF 2007

Dated this the 11th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution for the offence punishable under Sec.138 of the Negotiable Instruments Act. Cognizance had been taken. The petitioner had entered appearance. He was enlarged on bail. But on account of his failure to appear on 28/9/07, a warrant of arrest has been issued by the learned Magistrate against the petitioner. Such warrant of arrest now chases the petitioner. The case now stand posted to 3/1/08.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned

Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. In the peculiar facts and circumstances of this case,

there shall be a further direction that the warrant of arrest issued against the petitioner shall not be executed till 18/12/2007. On or before that date, the petitioner must surrender before the learned Magistrate and seek regular bail.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge